

**United States Department of Labor  
Employees' Compensation Appeals Board**

---

**D.Y., Appellant**

**and**

**DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS HEALTH ADMINISTRATION,  
Milwaukee, WI, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 17-0098  
Issued: March 28, 2017**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On October 21, 2016 appellant filed a timely appeal from an October 6, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether appellant has met her burden of proof to establish a right hand condition in the performance duty, as alleged.

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> Appellant submitted new evidence on appeal. The Board's jurisdiction is limited to the review of evidence which was before OWCP at the time it rendered its decision. Thus, the Board is precluded from reviewing this evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c)(1).

### **FACTUAL HISTORY**

On July 25, 2016 appellant, then a 56-year-old housekeeping aid, filed an occupational disease claim (Form CA-2) alleging that she injured her right hand as a result of “repetitive use doing daily housekeeping duties.” She first became aware of her claimed condition and of its relationship to her federal employment on June 15, 2016.

By letter dated August 15, 2016, OWCP requested that appellant submit additional factual and medical evidence in support of her claim. It noted that she had not submitted any evidence regarding the employment factors alleged to have caused her injuries. OWCP further noted that appellant had not submitted any medical evidence in support of her claim. It afforded her 30 days to submit additional evidence and to respond to its inquiries. Appellant did not submit any further evidence.

By decision dated October 6, 2016, OWCP denied appellant’s claim for compensation. It noted that she failed to provide sufficient evidence to establish that the alleged events occurred as alleged and she had failed to submit medical evidence to establish an injury. OWCP found that appellant had not submitted any evidence to support her claim.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>5</sup>

---

<sup>3</sup> Gary J. Watling, 52 ECAB 278, 279 (2001); Elaine Pendleton, 40 ECAB 1143, 1145 (1989).

<sup>4</sup> Michael E. Smith, 50 ECAB 313, 315 (1999).

<sup>5</sup> R.H., 59 ECAB 382 (2008); Ernest St. Pierre, 51 ECAB 623 (2000).

### **ANALYSIS**

The Board finds that appellant has not submitted sufficient factual evidence to establish the essential elements of her claim. As previously noted, in an occupational disease claim appellant must submit a factual statement identifying the employment factors alleged to have caused or contributed to the presence of her claimed condition.<sup>6</sup> She has not submitted a statement identifying the particular housekeeping duties alleged to have caused or contributed to her claimed condition. Appellant's description of "repetitive use doing daily housekeeping duties" contained on the Form CA-2 lacks sufficient specificity to identify particular employment factors. Her burden of proof includes the submission of a detailed description of the employment factors or conditions which she believes caused or adversely affected a condition for which compensation is claimed.<sup>7</sup>

In an occupational disease claim appellant is also required to submit medical evidence of a diagnosed condition, and medical evidence establishing causal relationship between the diagnosed condition and the alleged factors of employment.<sup>8</sup> However, she has failed to submit any medical evidence to establish a right hand condition. As there is no medical evidence explaining how specific employment factors caused or aggravated a medical condition involving appellant's right hand, she has not met her burden of proof to establish her claim.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a right hand condition in the performance of duty, as alleged.

---

<sup>6</sup> *Id.*

<sup>7</sup> *T.C.*, Docket No. 16-1070 (issued January 24, 2017).

<sup>8</sup> *J.K.*, Docket No. 16-1850 (issued January 9, 2017).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 6, 2016 is affirmed.

Issued: March 28, 2017  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board